

AMENDED IN SENATE MAY 18, 2005
AMENDED IN SENATE APRIL 21, 2005
AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 547

Introduced by Senator Cox
(Coauthors: Senators Scott and Torlakson)
(Coauthor: Assembly Member Jones)

February 18, 2005

An act to add and repeal Section 22651.10 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 547, as amended, Cox. Vehicles: driving-under-the-influence: vehicle impoundment.

(1) Existing law authorizes a court to order the impoundment of a person's vehicle when the person has been convicted of violating certain provisions prohibiting driving a vehicle while under the influence of alcohol or any drug, or a combination of those.

Existing law authorizes the removal of a vehicle in accordance with a specified procedure when a peace officer undertakes the arrest of a person who was driving or in control of a vehicle, for an alleged public offense and the officer is required or authorized to take the person into custody, and does take the person into custody.

This bill would establish a pilot program in Sacramento County that would authorize, until January 1, 2009, the impoundment of a person's vehicle by a peace officer for a DUI offense that is undertaken in combination with an intervention and a referral of the person to a driving-under-the-influence program, as specified, if the person has one or more prior DUI convictions within the past 10

years. The bill would *implement the program only to the extent that funds from private or federal sources are available to fund the program*. The bill would require the county to report to the Legislature regarding the effectiveness of the pilot program, as specified. To the extent that this requirement would impose additional duties on the county, the bill would establish a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22651.10 is added to the Vehicle Code,
2 to read:
3 22651.10. (a) (1) Notwithstanding any other provision of
4 law, when a peace officer, as defined in Chapter 4.5
5 (commencing with Section 830) of Title 3 of Part 2 of the Penal
6 Code, arrests a person for an alleged violation of Section 23152
7 or 23153, and the person has one or more prior convictions
8 within the past 10 years for a violation of Section 23103, as
9 specified in Section 23103.5, or of Section 23140, 23152, or
10 23153, or of Section 191.5 of, or of paragraph (3) of subdivision
11 (c) of Section 192 of, the Penal Code, the peace officer may
12 cause the removal and seizure of the motor vehicle driven by that
13 person in the commission of that offense in accordance with this
14 chapter.
15 (2) A motor vehicle seized under paragraph (1) may be
16 impounded for not more than 30 days.
17 (3) The seizure and impoundment of a motor vehicle under
18 paragraphs (1) and (2) shall be undertaken only if the county
19 participates in a program that combines that seizure and
20 impoundment with an intervention and a referral to a
21 driving-under-the-influence program licensed under Section

1 11836 of the Health and Safety Code immediately upon the arrest
2 or arraignment of the person described in paragraph (1) or upon
3 the delivery of that person to a medical facility for treatment of
4 any injuries.

5 (b) (1) The intervention shall be performed by a certified
6 alcohol and drug addiction counselor.

7 (2) The county participating in the program established under
8 this section shall pay for the cost of the intervention, and no part
9 of that cost shall be passed on to the defendant.

10 (c) The registered and legal owner of a vehicle that is removed
11 and seized under subdivision (a) or their agents shall be provided
12 the opportunity for a storage hearing to determine the validity of
13 the storage in accordance with Section 22852.

14 (d) (1) Notwithstanding this chapter or any other provision of
15 law, an impounding agency shall release a motor vehicle to the
16 registered owner or his or her agent prior to the conclusion of the
17 impoundment period described in subdivision (a) under any of
18 the following circumstances:

19 (A) If the motor vehicle is a stolen motor vehicle.

20 (B) If the driver was not the sole registered owner of the
21 vehicle and the impoundment of the vehicle would cause a
22 hardship on the other registered owner or his or her family.

23 (C) If the person alleged to have violated Section 23152 or
24 23153 was not authorized by the registered owner of the motor
25 vehicle to operate the motor vehicle at the time of the
26 commission of the offense.

27 (D) If the registered owner of the motor vehicle was neither
28 the driver nor a passenger of the vehicle at the time of the alleged
29 violation of Section 23152 or 23153, or was unaware that the
30 driver was using the vehicle to engage in the unlawful activity
31 described in Section 23152 or 23153.

32 (E) If the legal owner or registered owner of the motor vehicle
33 is a rental car agency.

34 (F) If, prior to the conclusion of the impoundment period, a
35 citation or notice is dismissed under Section 40500, criminal
36 charges are not filed by the district attorney because of a lack of
37 evidence, or the charges are otherwise dismissed by the court.

38 (2) A motor vehicle shall be released pursuant to this
39 subdivision only if the registered owner or his or her agent

1 presents a currently valid driver's license to operate the vehicle
2 and proof of current vehicle registration, or if ordered by a court.

3 (3) If, pursuant to subparagraph (F) of paragraph (1) a motor
4 vehicle is released prior to the conclusion of the impoundment
5 period, neither the person charged with a violation of Section
6 23152 or 23153 nor the registered owner of the motor vehicle is
7 responsible for towing and storage charges nor shall the motor
8 vehicle be sold to satisfy those charges.

9 (e) A motor vehicle seized and removed under subdivision (a)
10 shall be released to the legal owner of the vehicle, or the legal
11 owner's agent, on or before the 30th day of impoundment if all of
12 the following conditions are met:

13 (1) The legal owner is a motor vehicle dealer, bank, credit
14 union, acceptance corporation, or other licensed financial
15 institution legally operating in this state, or is another person, not
16 the registered owner, holding a security interest in the vehicle.

17 (2) The legal owner or the legal owner's agent pays all towing
18 and storage fees related to the impoundment of the vehicle. Lien
19 sale processing fees shall not be charged to a legal owner who
20 redeems the vehicle on or before the 15th day of impoundment.

21 (3) The legal owner or the legal owner's agent presents
22 foreclosure documents or an affidavit of repossession for the
23 vehicle.

24 (f) (1) The registered owner or his or her agent is responsible
25 for all towing and storage charges related to the impoundment,
26 and any administrative charges authorized under Section
27 22850.5.

28 (2) Notwithstanding paragraph (1), if the person is convicted
29 of a violation of Section 23152 or 23153 and was not authorized
30 by the registered owner of the motor vehicle to operate the motor
31 vehicle at the time of the commission of the offense, the court
32 shall order the convicted person to reimburse the registered
33 owner for towing and storage charges related to the
34 impoundment, and administrative charges authorized under
35 Section 22850.5 incurred by the registered owner to obtain
36 possession of the vehicle, unless the court finds that the person
37 convicted does not have the ability to pay all or part of those
38 charges.

39 (3) If the vehicle is a rental vehicle, the rental car agency may
40 require the person to whom the vehicle was rented to pay all

1 towing and storage charges related to the impoundment and any
2 administrative charges authorized under Section 22850.5 that
3 were incurred by the rental car agency in connection with
4 obtaining possession of the vehicle.

5 (4) The owner is not liable for towing and storage charges
6 related to the impoundment if acquittal or dismissal occurs. A
7 county implementing an impoundment program under this
8 section shall establish a process for the immediate return of all
9 payments made by the defendant relating to the impoundment
10 upon the acquittal of the defendant or dismissal of the case.

11 (5) The vehicle may not be sold prior to the defendant's
12 conviction.

13 (6) (A) The impounding agency is responsible for the actual
14 costs incurred by the towing agency as a result of the
15 impoundment should the registered owner be absolved of
16 liability for those charges pursuant to paragraph (3) of
17 subdivision (d).

18 (B) Notwithstanding subparagraph (A), nothing shall prohibit
19 an impounding agency from making prior payment arrangements
20 to satisfy the requirement described in subparagraph (A).

21 (g) On or before January 1, 2009, the county shall report to the
22 Legislature regarding the effectiveness of the pilot program
23 authorized under this section in reducing the number of first-time
24 violations and repeat offenses of Section 23152 or 23153 in the
25 county.

26 (h) This section applies only to the County of Sacramento.

27 (i) *This section shall be implemented only to the extent that*
28 *funds from private or federal sources are available to fund the*
29 *program.*

30 (j) This section shall remain operative only until January 1,
31 2009.

32 ~~(j)~~

33 (k) This section shall remain in effect only until January 1,
34 2010, and as of that date is repealed, unless a later enacted
35 statute, that is enacted before January 1, 2010, deletes or extends
36 that date.

37 SEC. 2. If the Commission on State Mandates determines that
38 this act contains costs mandated by the state, reimbursement to
39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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